

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

# AMBER DIVER,

**Plaintiff,**

**VS.**

**TRAVELERS PERSONAL  
INSURANCE COMPANY,**

**Defendant.**

**CIVIL ACTION FILE NO.:**

**DEFENDANT TRAVELERS PERSONAL INSURANCE COMPANY'S**  
**NOTICE OF REMOVAL**

COMES NOW, Travelers Personal Insurance Company (“Travelers”), Defendant in the above-styled action and petitions for removal of the action herein referred from the Superior Court of Gwinnett County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division, and respectfully shows the Court the following:

1.

Travelers is a Defendant in a civil action brought against it in the Superior Court of Gwinnett County, Georgia, and styled *Amber Diver v. Travelers Personal Insurance Company*, Civil Action No. 23-A-01069-1, now pending in said court. A

copy of the Summons and Complaint in that action are attached hereto, marked Exhibit “A”, and made a part hereof. A copy of the Answer filed by Travelers in that action is attached hereto, marked Exhibit “B”, and made a part hereof. A copy of Travelers’ certificate of service of responses to Plaintiff’s discovery requests in that action is attached hereto, marked Exhibit “C”, and made a part hereof. A copy of Travelers’ certificate of service of Non-Party Requests for Production of Documents to Catastrophic Consulting, Inc. in that action is attached hereto, marked Exhibit “D”, and made a part hereof. A copy of Travelers’ certificate of service of supplemental responses to Plaintiff’s discovery requests in that action is attached hereto, marked Exhibit “E”, and made a part hereof. A copy of Travelers’ certificate of service of discovery requests to Plaintiff in that action is attached hereto, marked Exhibit “F”, and made a part hereof. A copy of the Superior Court of Gwinnett County’s Case Management Order in that action is attached hereto, marked Exhibit “G”, and made a part hereof. A copy of Travelers’ certificate of service of Non-Party Requests for Production of Documents to Reset Roofing, LLC. in that action is attached hereto, marked Exhibit “H”, and made a part hereof. A copy of Plaintiff’s certificate of service of responses to Travelers’ discovery requests in that action is attached hereto, marked Exhibit “I”, and made a part hereof. A copy of the parties

Joint Consent Motion to Substitute Defendant in that action is attached hereto, marked Exhibit “J”, and made a part hereof. A copy of the Superior Court of Gwinnett County’s Order granting the parties Joint Consent Motion to Substitute Defendant in that action is attached hereto, marked Exhibit “K”, and made a part hereof. These represent all of the pleadings files with the Superior Court of Gwinnett County.

2.

Said action was commenced by service of process consisting of said Summons and Statement of Claim upon Travelers through its registered agent on February 23, 2023. Travelers filed its answer and affirmative defenses in the Superior Court of Gwinnett County on March 27, 2023. While more than 30 days have passed since service of the summons and complaint in the case filed in the Superior Court of Gwinnett County, during the course of discovery Travelers became aware that this case met the requirements of diversity of citizenship jurisdiction. Travelers was only made aware that the case met the jurisdictional amount in controversy for jurisdiction on diversity of citizenship on July 12, 2023. 28 U.S.C. §§ 1446(b)(3)<sup>1</sup>.

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<sup>1</sup> (3) Except as provided in subsection (c), if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or

On that date, Plaintiff served responses to Travelers' First Interrogatories claiming damages exceed \$75,000, a previously unknown amount of damages. A copy of the certificate of service of Plaintiff's discovery responses is attached hereto, marked Exhibit "I". Therefore, this Petition is timely filed within thirty (30) days of such service.

3.

There is diversity of citizenship among the parties. This is a controversy between Plaintiff, citizens of Georgia, and Travelers, a Connecticut corporation, incorporated in Connecticut, whose principal place of business is located at One Tower Square, Hartford, CT 06183-0001. Travelers is not a citizen of the State of Georgia wherein this action was brought.

4.

The damages sought by the Plaintiff in the matter in controversy exceeds the sum or value of Seventy-Five Thousand Dollars (\$75,000), exclusive of interest and costs. This is demonstrated by Plaintiff's response to Travelers' First Interrogatories claiming that she is entitled to \$75,961.64. Plaintiff also seeks damages for bad faith

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otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.

breach of the policy issued to Plaintiff under O.C.G.A. § 33-4-6 in the amount of “not more than fifty percent (50%) of the liability of the insurer for the loss, or \$5,000.00, whichever is greater, and all reasonable attorneys’ fees for the prosecution of the action against the Insurer.” Finally, Plaintiff seeks fees charged by third parties. A true and correct copy of Plaintiff’s responses to Travelers’ First Interrogatories is attached hereto, marked Exhibit “L”. Accordingly, this is a civil action brought in the State Court for which this United States District Court has original jurisdiction due to diversity of citizenship, as well as the amount in controversy, under Section 1332 of Title 28 of the United States Code.

5.

Travelers has given written notice of the filing of the Notice of Removal to Plaintiff and to the Clerk of the Superior Court of Gwinnett County. A copy of the Notice of Filing Removal is attached hereto as Exhibit “M”.

WHEREFORE, Travelers prays that this petition be filed, and that said action be removed to and proceed in this Court, and that no further proceedings be had in said case in the Superior Court of Gwinnett County, Georgia.

Respectfully submitted this 9<sup>th</sup> day of August, 2023.

CHARTWELL LAW, LLP

/s/ Karen K. Karabinos

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/s/ Kevin P. Kelly

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*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I have this day served a copy of the within and foregoing *Defendant Travelers Personal Insurance Company's Notice of Removal* upon all parties to this matter using the CM/ECF system which will automatically send email notification of such filing to the following counsel of record:

**Foster Peebles  
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This 9<sup>th</sup> day of August, 2023.

CHARTWELL LAW, LLP

/s/ Karen K. Karabinos  
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Georgia Bar No. 423906

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